

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

RICHARD MARK ST. HILL,)	
)	
Petitioner)	
)	
v.)	1:06cv68
)	2:92cr228-4
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

ORDER ADOPTING MAGISTRATE JUDGE'S RECOMMENDATION

On January 24, 2006, Magistrate Judge P. Trevor Sharp filed his Recommendation [Doc. # 2]¹ that the Petitioner's "Motion Pursuant to Rule 60(b)(5)/(6), Fed. R. Civ. P. and Gonzalez v. Crosby, 125 S. Ct. 2641 (2005)" [Doc. # 1] be construed as a motion under 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence and dismissed for failure to seek and receive permission from the Fourth Circuit Court of Appeals to proceed with a successive petition. To the extent Mr. St. Hill makes a motion under Federal Rule of Civil Procedure 15(c)(2) to amend a prior § 2255 motion, Magistrate Judge Sharp recommended that the motion be denied.

Rule 72 of the Federal Rules of Civil Procedure provides that "[w]ithin 10 days after being served with a copy of the recommended disposition, a party may

¹This and all further citations to the record will be to the civil case, 1:06cv68.

serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b). Three attempts were made to mail notification of the Recommendation filing to the parties. First, on January 25, 2006, the parties were mailed notification of the Recommendation filing and informed that objections to the Recommendation were due on February 8, 2006. Mr. St. Hill refused to receive the pleadings mailed to him on January 25, 2006. Second, on February 1, 2006, the parties were mailed notification of the Recommendation filing and informed that objections to the Recommendation were due on February 15, 2006. Mr. St. Hill again refused to receive the pleadings mailed to him on February 1, 2006. Finally, on February 13, 2006, the parties were mailed notification of the Recommendation filing and informed that objections to the Recommendation were due on February 28, 2006. Mr. St. Hill yet again refused to receive the pleadings mailed to him on February 13, 2006. To date, neither party has filed an objection to the Recommendation.

The Court has reviewed the Recommendation of the Magistrate Judge and, finding no clear error, adopts that Recommendation. Thus, for the reasons set out in the Recommendation, the Petitioner’s Motion [Doc. # 1] is DENIED and this action is DISMISSED.

This the 1st day of February, 2008.

/s/ N. Carlton Tilley, Jr.
United States District Judge